

Private Legislation Procedure (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Clause.

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B I L L

TO

Provide for improving and extending the Procedure for obtaining Parliamentary Powers by way of Provisional Orders in matters relating to Ireland. A.D. 1919.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Application for Provisional Order.

1.—(1) When any public authority or any persons (hereinafter referred to as the petitioners) desire to obtain parliamentary powers in regard to any matter affecting public or private interests in Ireland for which they are entitled to apply to Parliament by a petition for leave to bring in a Private Bill, they shall proceed by presenting a petition to the Chief Secretary, praying him to issue a Provisional Order in accordance with the terms of a draft Order submitted to him, or with such modifications as shall be necessary.

Application
for Pro-
visional
Order.

(2) A printed copy of the draft Order shall at the prescribed time be deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons, and also at the office of the Treasury and of such other public departments as may be prescribed.

(3) Before presenting a petition under the provisions of this Act, the petitioners shall make such deposits and give such notice by public advertisement, and, where land is proposed to be taken, by such service on owners, lessees, and occupiers, as may be prescribed.

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Report by
Chairmen.

2.—(1) The Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons (in this Act referred to as the Chairmen) shall, if the two Houses of Parliament think fit so to order, determine all matters of practice and procedure which will enable them to take into consideration the draft Order, and to report thereon to the Chief Secretary.

(2) With a view to such report the Chief Secretary shall forthwith inform the Chairmen of any dissents from or objections to any of the provisions of the Order which have been stated in the prescribed manner and within the prescribed time.

(3) If it appears from the report of the Chairmen that either of the Chairmen is of opinion that the provisions or some provisions of the draft Order do not relate wholly or mainly to Ireland, or are of such a character or magnitude, or raise any such question of policy or principle, that they ought to be dealt with by Private Bill and not by Provisional Order, the Chief Secretary shall, without further inquiry, refuse to issue the Provisional Order, so far as the same is objected to by the Chairmen or Chairman.

(4) A copy of every such report shall as soon as possible be laid before both Houses of Parliament.

(5) If the Chief Secretary refuses to issue the provisional order or part thereof in pursuance of the provisions of this section, the petitioners may, by notice served in the prescribed manner and within the prescribed time, inform all opponents of their intention to proceed by way of Private Bill, and in that event and subject to Standing Orders, the notices published and served and the deposits made for the proposed Provisional Order shall be deemed to have been published, served, and made for a Private Bill applying for similar powers, and the petition for the Provisional Order shall be deemed to be a petition for leave to bring in such a Bill.

Appointment of and Inquiry by Commissioners.

Inquiry by
Commissioners.

3.—(1) If the Chairmen report that the Provisional Order may proceed, or if a report against a part only of the Order is made by the Chairmen, or either of them, upon due proof to the satisfaction of the examiner of compliance with the general orders, under this Act the Chief Secretary shall take the petition for a Provisional Order into consideration, and subject to the

report against any part of the Order (if any), shall, if there is opposition, or in any case in which he thinks inquiry necessary, direct an inquiry as to the propriety of assenting to the prayer of the petition, subject as aforesaid, to be held by Commissioners appointed under this Act.

(2) If the examiner under this Act finds that the general orders have not been complied with, the petitioners may, in the prescribed manner and within the prescribed time, apply to the Chairmen to dispense with any general order which has not been complied with, and the decision of the Chairmen shall be final.

(3) If any conditions are attached to any dispensation with compliance with any general order, the Provisional Order shall not be proceeded with until the examiner shall have reported that such conditions have been satisfied.

4.—(1) The persons to be Commissioners shall be selected in manner provided by this Act from the members of the parliamentary panels and the members of the extra-parliamentary panel constituted under this Act.

Selection of Commissioners from parliamentary and extra-parliamentary panels.

(2) Standing Orders may, if both Houses of Parliament think fit so to order, provide for the formation of panels of members of the two Houses respectively to act as Commissioners under this Act (in this Act referred to as the parliamentary panels).

(3) The extra-parliamentary panel shall consist of twenty persons qualified by experience of affairs to act as Commissioners under this Act. The members of the extra-parliamentary panel shall be nominated by the Chairmen acting jointly with the Chief Secretary, and shall hold office for a term of five years, and any casual vacancy on the panel caused by death or resignation shall be filled by the Chairmen acting jointly with the Chief Secretary.

(4) The extra-parliamentary panel shall be formed on or before the first day of January next after the commencement of this Act, and at the expiration of every period of five years shall be re-formed in like manner and with the like incidents.

5.—(1) When it is determined that Commissioners shall be appointed for the purpose of inquiring as to the propriety of making and issuing a Provisional Order or Orders under this Act, four Commissioners, or if in any case the Chairmen think fit, six Commissioners, shall be appointed for that purpose, and, subject to Standing Orders, the persons to be Commissioners

Appointment of Commissioners.

A.D. 1919, shall be appointed from the members of the panels in the following manner:—

- (a) An equal number shall be appointed by the Chairmen from each parliamentary panel and if that course is impracticable: 5
- (b) The Commissioners may be appointed by the Chairmen from the parliamentary panels, in unequal numbers, or if need be wholly from one parliamentary panel, and if and so far as it is impracticable to obtain the requisite number of Commissioners from the parliamentary panels: 10
- (c) So many persons as are required to make up the requisite number of Commissioners shall be appointed by the Chief Secretary from the extra-parliamentary panel. 15

(2) The Chairman of the Commissioners shall be such one of the Commissioners as may be nominated by the Chairmen or, if all the Commissioners are appointed from the extra-parliamentary panel, as may be nominated by the Chief Secretary.

(3) Any casual vacancy among the Commissioners, or in the office of Chairman of Commissioners caused by death or resignation, or inability to give attendance, such resignation or inability to attend being certified by a writing under the Commissioner's hand, may be filled by the Chief Secretary by appointing a member of any of the panels. 25

(4) Notwithstanding a dissolution of Parliament, any member of either House of Parliament may continue to act as Commissioner in any inquiry for the purpose of which he has been appointed to act.

(5) The persons appointed as Commissioners shall have no personal or local interest in the matter of the proposed Order or Orders, and shall as a condition of such appointment make a declaration to that effect, provided that Irish members of either House of Parliament shall neither be disqualified from acting nor preferred as Commissioners to deal with proposed Orders in which they have no personal or local interest. 35

Sittings of
Commissioners.

6.—(1) Commissioners shall hold their inquiry at such place in Ireland as they may determine, with due regard to the subject-matter of the proposed Order and to the locality to which its provisions relate. The sittings shall be held in public. 40

(2) Commissioners shall hear and determine any question of locus standi, but they shall not sustain the locus standi of any person who has not in the prescribed manner and within the prescribed time objected to the proposed Order, unless on special grounds established to the satisfaction of the Commissioners, and subject to such conditions as to payment of costs or otherwise as the Commissioners may determine.

(3) Subject to general orders any person shall be allowed to appear before the Commissioners in opposition to the Order by himself, his counsel, agent, and witnesses, and counsel, agents, and witnesses may be heard in support of the Order.

(4) Subject to general orders, whenever a recommendation is made by the Chairmen or by any public department, it shall be referred to the Commissioners who shall notice such recommendation in their report, and shall state their reasons for dissenting, should such recommendation not be agreed to.

(5) Commissioners shall sit from day to day as far as possible until they finish the inquiry and submit their report to the Chief Secretary, with the evidence taken and the recommendations made by them, and they may recommend that the Order should be issued as prayed for, or that the Order should be issued with the amendments made by them and shown in a copy of the Order submitted with their report, or that the Order should be refused.

7.—(1) Where the Commissioners recommend that an Order should be refused, the Chief Secretary shall refuse to make the Order. Making of Orders.

(2) In any other case the Chief Secretary may make an Order, either as prayed, or with the amendments (if any) made by the Commissioners, or, where no inquiry has been held, with such amendments as appear to be necessary having regard to any recommendations of the Chairmen or any public department, and (whether an inquiry has or has not been held) with such amendments approved by the Chairmen as appear to be necessary on grounds of public policy or for the purpose of conforming to the practice of Parliament.

(3) Where an Order is to be made with amendments the Chief Secretary shall cause a printed copy to be deposited in the office of the Clerk of the Parliaments, the Private Bill Office of the House of Commons, the office of the Treasury, and of such

A.D. 1919. — other public departments as may be prescribed, and shall not make the Order until the expiration of the prescribed time after the making of such deposits.

(4) Where an Order has been made with amendments it shall be the duty of the petitioners to serve copies of the Order as so made in the manner and upon the persons prescribed.

(5) An Order shall not be of any validity unless it is confirmed by Parliament, and with a view to such confirmation the Chief Secretary, after making an Order, shall, as soon as conveniently may be, submit the same to Parliament in a Bill (in this Act referred to as a Confirmation Bill) which shall be introduced in such House as may be determined by the Chairmen.

Procedure on
Confirmation
Bills.

8.—(1) Subject to the provisions of this section, as to reference to a Joint Committee, a Confirmation Bill, when it has been introduced, shall be deemed to have passed through all its stages up to and including Committee, and shall be ordered to be considered as if reported from a Committee, and when it has passed in the first House of Parliament, the like proceedings shall, subject to Standing Orders, be taken in the second House.

(2) Where an Order has been made after inquiry held and a petition is presented against the Order within seven days after the introduction of the Confirmation Bill, in the House in which it originates, the Bill shall proceed to second reading and shall be referred to a Joint Committee of both Houses of Parliament if a motion for such reference (notice of which may be given by any member) is moved immediately after second reading and carried.

(3) Where a Confirmation Bill has been referred to a Joint Committee the opponent shall, subject to the practice of Parliament, be allowed to appear and oppose by himself, his counsel, agent, and witnesses, and counsel, agent and witnesses may be heard in support of the Bill.

The Joint Committee shall hear and determine any question of locus standi, and may, by a majority, award costs. Costs awarded may be taxed and recovered and shall be secured in manner provided by the Parliamentary Costs Act, 1865, subject to any necessary modifications.

(4) An Act confirming an Order of the Chief Secretary under this Act shall be deemed to be a Public Act.

Supplemental.

A.D. 1919.

9. For the purposes of this Act Commissioners shall have the following powers; that is to say,—

Examination
of witnesses,
production of
documents,
&c.

(1) They may summon and examine on oath such witnesses as they think fit to call or allow to appear before them;

(2) They may require the production of all books, papers, plans and documents relating to the matters dealt with in the draft Provisional Order referred to them;

(3) They may, when sitting in open court, report to the Lord Chancellor any person who has been guilty of contempt of court, and any judge of the High Court nominated by the Lord Chancellor may thereupon enquire into the alleged offence, and after giving the person accused an opportunity of being heard, may punish that person in like manner as if the contempt were a contempt of the High Court or of a judge thereof;

(4) The orders of Commissioners may be enforced as if they were orders of the High Courts;

(5) The quorum of the Commissioners shall be three; but any order, summons, or warrant may be signed by one Commissioner only; and

(6) A Chairman of Commissioners shall have a casting as well as a deliberative vote.

10.—(1) County councils, municipal corporations, and other governing bodies shall have the same powers and be subject to the same restrictions in regard to proceedings under or in pursuance of this Act as they have or are subject to under the provisions of the Borough Funds (Ireland) Act, 1888, the Railway and Canal Traffic (Provisional Orders) Amendment Act, 1891, and the Local Government (Ireland) Act, 1898, in regard to local and personal Bills or Bills to confirm Provisional Orders.

Powers of
county
councils,
town
councils, &c.
under Act.

(2) In addition, the council of any county, or the governing body in any district, to which any draft Provisional Order referred to Commissioners under this Act relates, may make a report to the Commissioners respecting the provisions of the draft order, and the Commissioners shall consider the recommendations contained in the report.

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Officers, &c.
of Com-
missioners.

11. Commissioners from time to time appointed shall have such office accommodation as the Treasury may determine, and the Chief Secretary may from time to time, with the consent of the Treasury as to number, appoint or employ such officers, clerks, and messengers as shall be necessary for the purposes of this Act. *There shall be paid to each of such officers, clerks, and messengers such remuneration as the Treasury may from time to time determine.*

12. There may also be assigned for the purposes of this Act such one or more of the examiners appointed under Standing Orders as the Chairmen may direct. An examiner shall perform under this Act duties analagous to those he now performs under Standing Orders, and shall receive such remuneration for his services as the Treasury shall determine.

Payment of
expenses,
&c.

13. *The travelling and subsistence allowances of the Commissioners and examiners, together with all other expenses incidental to carrying out this Act, shall be paid out of moneys provided by Parliament.*

Provisions
for general
orders.
Fees.

14.—(1) The Chairmen, acting jointly with the Chief Secretary, shall at any time after the passing of this Act and from time to time make, and may vary and alter, such general orders as may be requisite for the regulation of proceedings under and in pursuance of this Act, including the fixing, with the consent of the Treasury, a scale of fees to be paid by petitioners and opponents of Provisional Orders. The fees so payable shall be collected and disposed of in such manner as the Treasury may direct.

(2) Such general orders shall, with a view to the regulation of Provisional Orders, provide for the incorporation (subject to such exceptions and variations as may be mentioned in the Order) with each Provisional Order of such general Acts as would if the Provisional Order were a Private Bill be incorporated therewith according to the ordinary practice of Parliament.

(3) Every general order purporting to be made in pursuance of this section shall immediately after the making thereof be laid before both Houses of Parliament if Parliament be then sitting, or, if Parliament be not then sitting, within seven days after the next meeting of Parliament; and if either House of Parliament by a resolution passed within one month after such general order has been so laid before the said House, resolve that the

whole or any specified part thereof ought not to continue in force, the same or the specified part thereof shall after the date of such resolution cease to be of any force, without prejudice nevertheless to the making of any other general order or to anything done before the date of such resolution; but, subject as aforesaid, every general order purporting to be made in pursuance of this Act shall be deemed to have been duly made and within the powers of the Act, and shall have effect as if it had been enacted in this Act.

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- 15 15.—(1) Nothing contained in this Act shall affect the right of any person to apply for or the powers of the Lord Lieutenant or Privy Council or the Local Government Board for Ireland, the Board of Trade or other department to make Provisional or other Orders under the provisions of any Act in force at the passing of this Act or the procedure therein specified or confer upon the Chief Secretary power to make Provisional Orders authorising and regulating the supply of electricity for lighting and other purposes.

Savings.

- (2) This Act shall not apply to Divorce Bills or Estate Bills within the meaning of Standing Orders.

16. If any objection to any draft order is made to the Chief Secretary on the ground that the undertaking proposed to be authorised by the order will destroy or injure any building or other object of historical interest, or will injuriously affect any natural scenery, the Chief Secretary shall consider such objection, and may, if he thinks fit, refer such objection to the Commissioners, who shall give to those by whom it is made a proper opportunity of being heard in support of it.

Buildings and objects of historical interest.

17. In this Act, unless the subject or context otherwise requires,—

Definitions.

The expression "Standing Orders" means the Standing Orders of the House of Lords and the House of Commons respectively;

The expression "general orders" means the general orders made in pursuance of this Act;

The expression "prescribed" means prescribed by the general orders made in pursuance of this Act;

The expression "agent" includes solicitor, and any person entitled to practise as agent according to the practice and rules of either House of Parliament in cases of Private Bills and matters relating thereto.

10. This Act shall commence to have effect from and after the end of the session of Parliament next ensuing the passing hereof, and may be cited as the Private Legislation Procedure (Ireland) Act, 1919, and shall apply to Ireland only.

Private Legislation Procedure (Ireland).

A B I L L

To provide for improving and extending the Procedure for obtaining Parliamentary Powers by way of Provisional Orders in matters relating to Ireland.

*Introduced by Mr. Macpherson,
supported by
Mr. Attorney-General for Ireland,
Mr. Solicitor-General for Ireland and
Mr. Hugh Russell.*

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